

Comments on Detailed Action

Applicants note and appreciate that the finality of the last Official Action has been withdrawn. *See Page 2, ¶ 2, of the Official Action.*

Applicants agree that Claims 18-21 were canceled in Applicants' Amendment and Reply filed January 10, 2003. *See Page 2, ¶ 3, of the Official Action.* Applicants note that the Detailed Action incorrectly indicates that Claims 8-21 had been canceled.

Applicants respectfully disagree that Claims 14-17 depend on canceled Claim 1. *See Page 2, ¶ 4, of the Official Action.* In Applicants' Amendment and Reply filed July 11, 2002, Claims 1 and 7 were canceled, and Claims 2 and 15-21 were replaced. *See Amendment and Reply filed July 11, 2002, Pages 1-3.* Original Claim 14 depends from Claim 2 and amended Claims 15-17 depend from Claim 2. Accordingly, Claims 14-17 depend not on canceled Claim 1, but on pending Claim 2.

Applicants note and appreciate that Applicants' Amendment and Reply filed January 10, 2003, was persuasive as to the phrase "regime or regimen" and that Applicants' claims are no longer considered composition claims. *See Page 2, ¶ 5 - Page 3, ¶ 1, of the Official Action.*

Applicants note and appreciate that Applicants' Amendment and Reply filed January 10, 2003, was found persuasive as to the phrases "such period of time ... desired response" and "PPAR" and that former 35 U.S.C. § 112, Second Paragraph rejections based on those phrases have been removed. *See Page 3, ¶ 2, of the Official Action.*

Rejections Under 35 U.S.C. § 112, Second Paragraph

Claims 2-6 and 8-13 are purportedly rejected under 35 U.S.C. § 112, Second Paragraph, as allegedly indefinite due to the phrase "such period of time ... desired response." *See Page 3, ¶ 3 - Page 4, ¶ 1, of the Official Action.* This rejection contradicts the foregoing section of the Detailed Action. Pursuant to two telephone calls between the undersigned and Examiner Jiang, on May 27 and May 29, 2003, it was agreed that this rejection is a clerical error and is therefore moot.

Claims 9-12 have been rejected under 35 U.S.C. § 112, Second Paragraph, as allegedly indefinite due to the phrase "compound (I) comprising at least one linear or branch alkyl radical" According to the Examiner, it is unclear "which substituent in the structural formula here, i.e., R₁, R₂...or R₈ have this linear or branch alkyl radical in Claim 9 or other groups in 10-12." This rejection is respectfully traversed.

When deciding whether Claims 9-12 are indefinite, it is essential to remember that definiteness of claim language is not analyzed in a vacuum, but instead **in light of (1) the application disclosure, (2) the teachings of the prior art, *and* (3) the interpretation one of skill in the art would give the language in question.** *See M.P.E.P § 2171.* As discussed in Applicants' last two responses, "lower alkyl radical," "linear or branched alkyl radical," "monohydroxyalkyl radical," and "polyhydroxyalkyl radical" are **specifically defined in Paragraphs 0009-0012 of the Specification.** Accordingly, what is meant by these terms is clearly set forth.

Moreover, the Examiner's hypothetical difficulty with determining "which substituent in the structural formula herein, i.e., R_1 , R_2 ... R_8 have this linear or branch alkyl radical in Claim 9 or other groups in 10-12" is surprising. Claim 2 specifies that:

R_1 is a hydrogen atom or an $-OR_5$ radical
 R_2 is a hydrogen atom or a lower alkyl radical
 R_3 and R_4 ... are each a hydrogen atom or a lower alkyl radical
etc.

Claim 9 then specifies that said at least one polycyclic aromatic compound (I) comprises at least one lower alkyl radical which is a methyl, ethyl, isopropyl, butyl, tert-butyl, or hexyl radical. Claim 10 specifies that said at least one polycyclic aromatic compound (I) comprises at least one linear or branched alkyl radical having from 1 to 20 carbon atoms which is a methyl, ethyl, propyl, 2-ethylhexyl, octyl, dodecyl, hexadecyl or octadecyl radicals. Claim 11 specifies that said at least one polycyclic aromatic compound (I) comprises at least one monohydroxyalkyl radical selected from the group consisting of 2-hydroxyethyl, 2-hydroxypropyl and 3-hydroxypropyl radicals. Claim 12 specifies that at least one polycyclic aromatic compound (I) comprises at least one polyhydroxyalkyl radical selected from the group consisting of 2,3-dihydroxypropyl, 2,3,4-tri-hydroxybutyl and 2,3,4,5-tetrahydroxypentyl radicals and the pentaerythritol residue.

Therefore, the very definitions of the R groups inform one whether they have the "linear or branch alkyl radical ... or other groups" Claims 9-12 then specify exactly what may be present.

In addition, U.S. Patent No. 5,763,487 to Bernardon et al. ("Bernardon") has been cited against Applicants for 35 U.S.C. § 102(b) purposes. *See below*. Applicants respectfully direct the Examiner's attention to Claims 3-5 of Bernardon, which feature language much like Applicants' currently-rejected language. If the Examiner is able to understand what is meant by Bernardon's claims and to use this publication in a 35 U.S.C. § 102(b) rejection, Applicants believe the meaning of instant Claims 9-12 is also readily apparent.

In sum, Applicants reiterate that one of skill in the art would readily recognize what is meant by the cited claim terms and that breadth of a claim is not to be equated with indefiniteness. *See In re Miller*, 441 F.2d 689 (C.C.P.A. 1971). Applicants respectfully request withdrawal of the rejections to "Compound (1) comprising at least one linear"

Rejections Under 35 U.S.C. § 102(b)

Claims 2-6 and 8-17 have been rejected under 35 U.S.C. § 102(b) as allegedly anticipated by Bernardon. This rejection is respectfully traversed.

To anticipate a claim, a single source must contain **all** elements of the claim. *Hybritech Inc. v. Monoclonal Antibodies, Inc.*, 802 F.2d 1367, 1379 (Fed. Cir. 1986). Moreover, missing elements may **not** be supplied by the knowledge of one skilled in the art or the disclosure of another reference. *Structural Rubber Prods. Co. v. Park Rubber Co.*, 749 F.2d 707, 716 (Fed. Cir. 1984).

Looking at Applicants' independent Claim 2, one recognizes that it includes the following elements:

**A regime or regimen
for treating disorders of the barrier function of human skin,
[more particularly] disorders of the secretion of epidermal lipids,
photodermatoses or ulcers, and disorders of the metabolism
of lipids,
comprising administering
for such period of time as required to elicit the desired response
a thus-effective amount of at least one polycyclic aromatic compound
having the structural formula (I).**

It is essential to keep in mind that Applicants' regimes and regimens are directed to treating disorders of the barrier function of human skin. Bernardon, on the other hand, is silent as to treatment of disorders of the barrier function of human skin. While Bernardon cites many suitable fields of therapy, including: keritization disorders, dermal or epidermal proliferations, bullous dermatoses, collagen diseases, ophthalmological disorders, skin aging, reducing pigmentations and actinic keratoses, stigmas of epidermal and/or dermal atrophy, cicatrization disorders, disorders of the sebaceous function, cancerous or precancerous states, inflammatory conditions, viral conditions, alopecia, and cardiovascular disorders (*See Bernardon, Column 5, Line 54 - Column 6, Line 44*), it is silent as to treating disorders of the barrier function of human skin.

Because Bernardon does not contain at least the disorders of the barrier function of human skin element of Claim 2, Bernardon does not anticipate Claim 2. Accordingly, Applicants respectfully request withdrawal of the 35 U.S.C. § 102(b) rejection of Claims 2-6 and 8-17 over Bernardon.

CONCLUSION

From the foregoing, further and favorable consideration in the form of a Notice of Allowance is respectfully requested and earnestly solicited.

In the event that there are any questions relating to this response, or the application in general, it would be greatly appreciated if the Examiner would telephone the undersigned attorney concerning such questions so that prosecution of this application may be expedited.

Respectfully submitted,
BURNS, DOANE, SWECKER & MATHIS, L.L.P.

By: _____


Erin M. Dunston
Registration No. 51,147

P.O. Box 1404
Alexandria, Virginia 22313-1404
(703) 836-6620

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